

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

V.

0.028 ACRES OF LAND, MORE OR LESS,
SITUATED IN SEBASTIAN COUNTY,
ARKANSAS; PRAIRIE LAND HOLDINGS,
LLC; AND SEBASTIAN COUNTY TAX
ASSESSOR ZACH JOHNSON; ET AL.,

Defendants.

Case No. 2:19-cv-02049-PKH

COMPLAINT IN CONDEMNATION WITH DECLARATION OF TAKING

1. This is a civil action brought by the United States of America at the request of the Secretary of Transportation through the Acting Director of the Aviation Logistics Organization, for the taking of an interest in property in Fort Smith, Arkansas, under the power of eminent domain through a Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has jurisdiction over all relevant matters in the case as provided by 28 U.S.C. § 1358. The Court has venue under 28 U.S.C. § 1403.

3. The authority for the acquisition of the estate in property is set forth in Schedule A, attached hereto and made a part hereof.

4. The public uses for which the property is taken is set forth in Schedule B, attached hereto and made a part hereof.

5. A legal description of the property being taken is set forth in Schedule C, attached hereto and made a part hereof.

6. A plat (map) showing the land in which the interest is being taken is set forth in

Schedule D, attached hereto and made a part hereof.

7. The estate being taken is described in Schedule E, attached hereto and made a part hereof.

8. The names and addresses of known parties having or claiming an interest in said property are set forth in Schedule F, attached hereto and made a part hereof.

9. The estimate of just compensation is stated in Schedule G, attached hereto and made a part hereof.

WHEREFORE, the United States requests judgment that the property and interests be condemned, and that just compensation for the taking be ascertained and awarded, and for such other relief as may be lawful and proper.

Dated: April 16, 2019.

Respectfully submitted,

/s/ Miles H. Plant

MILES H. PLANT (NY Bar No. 4901583)
DEVIN WOLAK (IL Bar No. 6273266)
Trial Attorneys
U.S. Department of Justice
Environment & Natural Resources Division
Land Acquisition Section
Post Office Box 7611
Washington, D.C. 20044-7611
Phone: (202) 305-0284
Fax: (202) 305-0398
Email: miles.plant@usdoj.gov
Email: devin.wolak@usdoj.gov

DUANE (DAK) KEES
UNITED STATES ATTORNEY

By: /s/ Mark W. Webb

MARK W. WEBB (AR Bar No. 77141)
Assistant U. S. Attorney
414 Parker Avenue
Ft. Smith, AR 72901
Phone: (479) 494-4060
Fax: (479) 441-0569
Email: mark.webb@usdoj.gov

SCHEDULE A

AUTHORITY

This Declaration of Taking is filed pursuant to the authority of 40 U.S.C. § 3113 and 40 U.S.C. § 3114, which authorize the condemnation of land and the filing of a Declaration of Taking; 49 U.S.C. § 106(f)(2)(A)(ii), 49 U.S.C. § 106(n)(l)(A)(i), 49 U.S.C. § 106(n)(l)(A)(iii), and 49 U.S.C. § 40110(a)(1), which authorize the Administrator of the Federal Aviation Administration to acquire property and equipment necessary for airports and air traffic safety; and the Consolidated Appropriations Act, 2018, Pub. L. 115-141, which appropriate funds for the Federal Aviation Administration's establishment of air navigation facilities.

The authority granted the Administrator of the Federal Aviation Administration in 49 U.S.C. §§ 106(n)(l)(A)(i), (iii), to acquire by condemnation any interest in property the Administrator considers necessary, was delegated to the Federal Aviation Administration Acquisition Executive, by memorandum entitled "Designation of Acquisition Executive and Delegation of Authority," dated August 14, 2014, who then delegated that authority to the Director of Aviation Logistics Organization by memorandum entitled "Eminent Domain Delegation of Authority," dated November 17, 2014.

SCHEDULE B

PUBLIC PURPOSE

The public purpose for which the property described in Schedule C is taken is for the operation of a critical component of the National Airspace System (NAS) to support the safe navigation and operation of all military, commercial, and private instrument aviation activities.

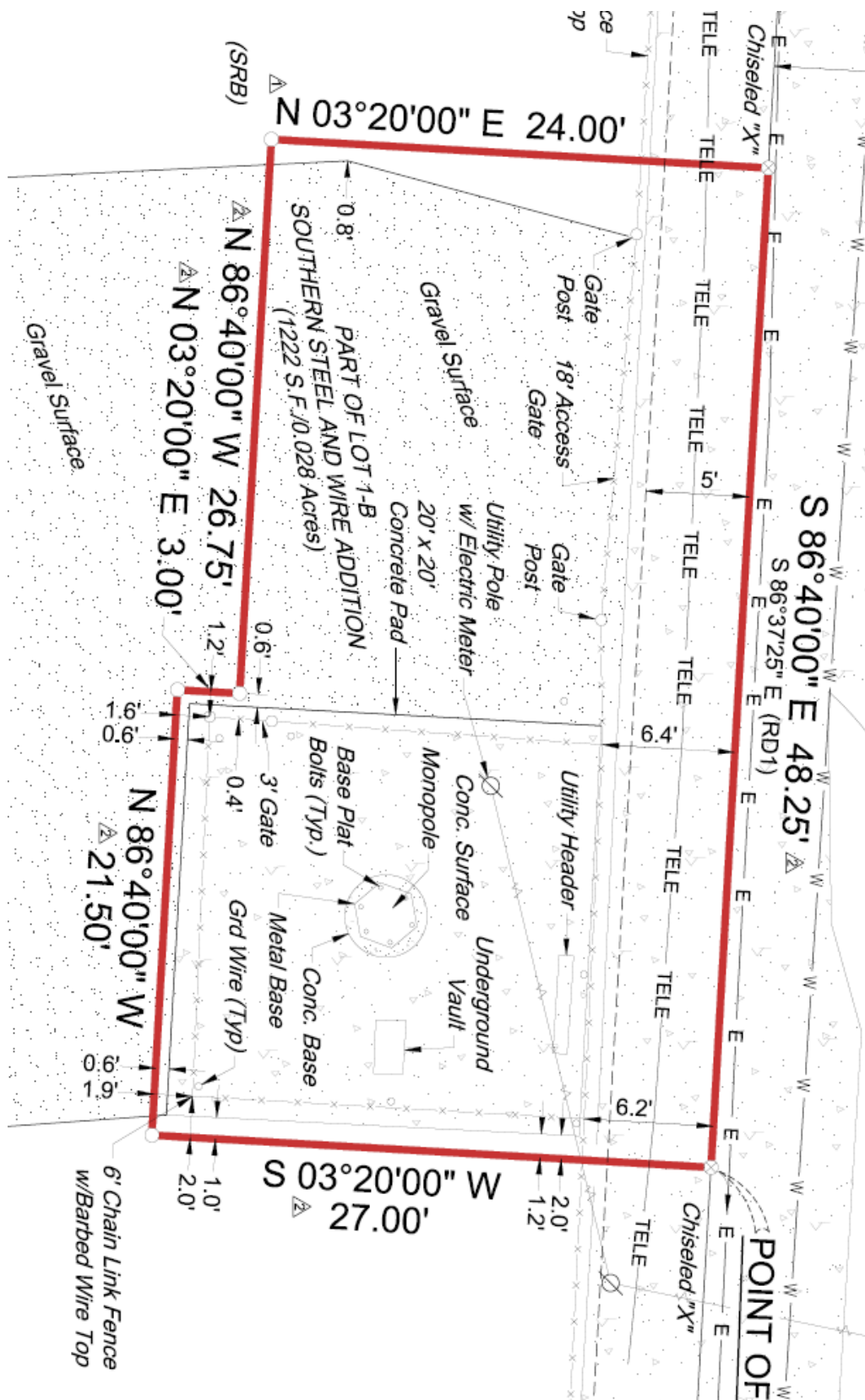
SCHEDULE C

LEGAL DESCRIPTION

Real Property in Fort Smith, Arkansas, described as follows:

PART OF LOT 1-B, SOUTHERN STEEL AND WIRE ADDITION, LOTS 1-A AND 1-B, BEING A REPLAT OF LOT 1, SOUTHERN STEEL AND WIRE AN ADDITION TO THE CITY OF FORT SMITH, SEBASTIAN COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND CHISELED "X" IN CONCRETE SURFACE BEING THE NORTHEAST CORNER OF SAID LOT 1-B; THENCE NORTH 86 DEGREES 40 MINUTES 00 SECONDS WEST, 97.45 FEET ALONG THE NORTH LINE OF SAID LOT 1-B TO A SET CHISELED "X" IN CONCRETE SURFACE AND THE POINT OF BEGINNING; THENCE SOUTH 03 DEGREES 20 MINUTES 00 SECONDS WEST, 27.00 FEET TO A SET 1/2 INCH DIAMETER REBAR WITH YELLOW PLASTIC CAP STAMPED LS663; THENCE NORTH 86 DEGREES 40 MINUTES 00 SECONDS WEST, 21.50 FEET TO A SET 1/2 INCH DIAMETER REBAR WITH YELLOW PLASTIC CAP STAMPED LS663; THENCE NORTH 03 DEGREES 20 MINUTES 00 SECONDS EAST, 3.00 FEET TO A SET 1/2 INCH DIAMETER REBAR WITH YELLOW PLASTIC CAP STAMPED LS663; THENCE NORTH 86 DEGREES 40 MINUTES 00 SECONDS WEST, 26.75 FEET TO A SET 1/2 INCH DIAMETER REBAR WITH YELLOW PLASTIC CAP STAMPED LS663; THENCE NORTH 03 DEGREES 20 MINUTES 00 SECONDS EAST 24.00 FEET TO A CHISELED "X" IN CONCRETE SURFACE AT THE NORTH LINE OF SAID LOT 1-B; THENCE SOUTH 86 DEGREES 40 MINUTES 00 SECONDS EAST, 48.25 FEET ALONG THE NORTH LINE OF SAID LOT 1-B TO THE POINT OF BEGINNING AND CONTAINED WITHIN SAID BOUNDS 1222 SQUARE FEET / 0.028 ACRES MORE OR LESS.



SCHEDULE E

ESTATE TAKEN

The fee simple title to the land as described in Schedules C and D, subject to (1) the Public Utility Easement for the construction, operation, and maintenance of public or franchised utilities, both above ground and underground, owned by the City of Fort Smith, Arkansas, recorded as Document 7021685 at Book 010, Volume 229 on July 10, 2000; (2) any existing rights of OG&E as to the property; and (3) the existing lease (DTFASW-08-L-00020) between the Federal Aviation Administration and Prairie Land Holdings, LLC.

SCHEDULE F

NAMES AND ADDRESSES OF INTERESTED PARTIES

Prairie Land Holdings, LLC
4611 Rogers Avenue, Suite 201
Fort Smith, Arkansas 72903

Sebastian County Tax Assessor Zach Johnson
35 South 6th Street, Room 105
Fort Smith, Arkansas 72901

SCHEDULE G

ESTIMATE OF JUST COMPENSATION

The estimated just compensation for the interests being taken is \$45,000.00.